

# Agenda Item Form

Agenda Date: 9/7/04

Districts Affected: 3

Dept. Head/Contact Information: Patrick T. Abeln, A.A.E. 780-4736

## Type of Agenda Item:

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Resolution                                     | <input type="checkbox"/> Staffing Table Changes   | <input type="checkbox"/> Board Appointments        |
| <input type="checkbox"/> Tax Installment Agreements                                | <input type="checkbox"/> Tax Refunds              | <input type="checkbox"/> Donations                 |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement                          | <input type="checkbox"/> Budget Transfer          | <input type="checkbox"/> Item Placed by Citizen    |
| <input type="checkbox"/> Application for Facility Use                              | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements                                     | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application         |
| <input checked="" type="checkbox"/> Other <u>Amendment to Concession Agreement</u> |   |  |

## Funding Source:

- ☐ General Fund
- ☐ Grant (duration of funds: \_\_\_\_\_ Months)
- ☐ Other Source: \_\_\_\_\_

## Legal:

- ☒ Legal Review Required      Attorney Assigned (please scroll down): Sylvia Firth      ☒ Approved      ☐ Denied

Timeline Priority:   ☐ High      ☒ Medium      ☐ Low      # of days: \_\_\_\_\_

## Why is this item necessary:

To authorize First Amendment to the Baggage Cart and Locker Concession Agreement.

## Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

N/A

## Statutory or Citizen Concerns:

NONE

## Departmental Concerns:

NONE

## Remarks:

This Amendment will reduce the square footage of the office space under the Leased Premises and allow for reimbursement of overpaid rent.

## ITEM:

First Amendment to the Baggage Cart and Locker Concession Agreement between the City of El Paso (Lessor) and Smarte Carte, Inc. (Concessionaire)



## **El Paso International Airport**

TO: Mayor and City Council

FROM: Patrick T. Abeln, A.A.E.  
Director of Aviation

DATE: August 31, 2004

SUBJECT: **First Amendment to Concession Agreement Relating to the Baggage Cart and Locker Concession Agreement held by Smarte Carte, Inc. for Operations at the El Paso International Airport Placed on the September 7, 2004 City Council Meeting Agenda**

---

### **BACKGROUND:**

On July 1, 1998, the City of El Paso entered into the above referenced agreement with Smarte Carte, Inc. for a term of five (5) years with one option to extend the agreement for an additional five (5) years. The option became effective June 30, 2003 extending the expiration date to June 30, 2008. Smarte Carte occupies a 117 square foot office with the rental being adjusted yearly to match the terminal rental paid by the airlines. The current rental is \$30.42 per square foot. In addition they pay the greater of a minimum annual guarantee of \$10,513.56 or fifteen percent (15%) of revenue on the cart rentals. The Lessee has maintained their obligations under the Lease.

### **ANALYSIS:**

The Lessee has requested that the City approve the Amendment to the Baggage Cart and Locker Concession Agreement. During the remodeling of the terminal building Smarte Carte, Inc. was given a smaller office for their use. This was an adjustment from 300 square feet to 117 square feet effective February 1, 2002. An amendment is needed to give Smarte Carte, Inc. a credit of \$13,721.41 for the months they were over charged due to the correction of the office square footage. By this document, the City will approve the Amendment to Concession Agreement.

### **RECOMMENDATION:**

This document has been approved as to form by the City Attorney's office. The Department of Aviation has placed this item on the September 7, 2004 City Council agenda and recommends approval of same.

## RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the Mayor be authorized to sign a First Amendment to the Baggage Cart and Locker Concession Agreement between the City of El Paso ("Lessor") and Smarte Carte, Inc. ("Concessionaire") to reduce the square footage of the office space under the Leased Premises; to adjust the office rent; and to allow for reimbursement of overpaid rent from February 1, 2002 through May 1, 2004.

APPROVED the 7th day of September 2004.

CITY OF EL PASO

---

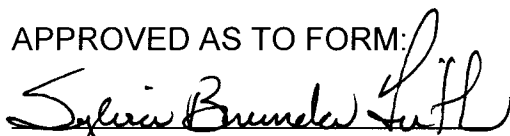
Joe Wardy  
Mayor

ATTEST:

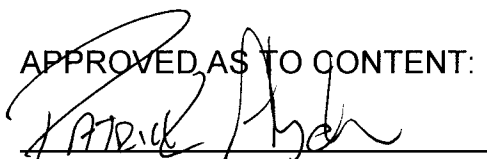
---

Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
Sylvia Borunda Firth  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
Patrick T. Abeln, A.A.E.  
Director of Aviation

[illegible]

This First Amendment to the Baggage Cart and Locker Concession Agreement is made by and between the City of El Paso ("Lessor") and Smarte Carte, Inc. ("Concessionaire") on the 7<sup>th</sup> day of September 2004.

**WHEREAS**, Lessor and Concessionaire entered into a Baggage Cart and Locker Concession Agreement (“Agreement”) dated July 1, 1998 granting Concessionaire the right to operate and maintain operations within the El Paso International Airport Terminal.

**WHEREAS**, Lessor and Concessionaire now desire to amend the Agreement for the purpose of reducing the square footage of the office space under the Leased Premises.

**NOW, THEREFORE**, the parties stipulate and agree that the Agreement is amended as follows:

1. **Description of Leased Premises.** The description of Leased Premises contained in §2.01(c) of the Agreement is amended to provide that the office space will consist of 117 square feet not 300 square feet. "Amended Exhibit A-1" attached hereto and incorporated herein by reference will replace Exhibit A-1 attached to the Agreement.
2. **Office Rentals.** The amount of office rent shall be based upon 117 square feet not 300 square feet and Concessionaire shall be entitled to a credit in the amount of \$13,721.41 to reimburse Concessionaire for the overpayment of rent which arose from the reduction in square footage from February 1, 2002 through May 1, 2004.
3. Except as expressly amended herein, all other terms and conditions of the Agreement dated July 1, 1998 remain in full force and effect.

This First Amendment to Concession Agreement is executed and effective this

7th day of September, 2004.

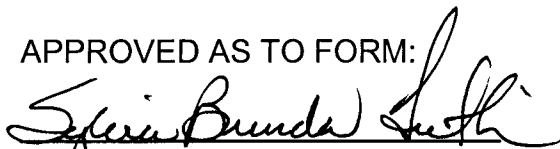
**CITY OF EL PASO**

\_\_\_\_\_  
Joe Wardy  
Mayor

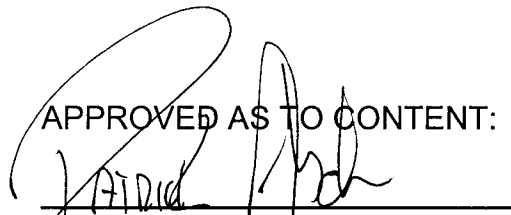
ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

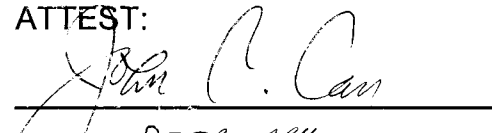
APPROVED AS TO FORM:

  
\_\_\_\_\_  
Sylvia Borunda Firth  
Assistant City Attorney

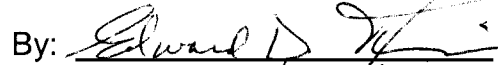
APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Patrick T. Abeln, A. A. E.  
Director of Aviation

ATTEST:

  
\_\_\_\_\_  
SECRETARY

Concessionaire: Smarte Carte, Inc.

By:   
Printed Name: Edward D. Rudis  
Title: President & CEO

**ACKNOWLEDGMENT**

THE STATE OF TEXAS    )  
                                      )  
COUNTY OF EL PASO    )

This instrument is acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_  
2004, by Joe Wardy, as Mayor of the City of El Paso.

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas  
Printed Name: \_\_\_\_\_

**(ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE)**

# ACKNOWLEDGMENT

THE STATE OF MINNESOTA )  
 )  
COUNTY OF RAMSEY )

This instrument is acknowledged before me on this 23<sup>rd</sup> day of August  
2004, by Edward D Rudis, as Ves. CEO of Smarte Carte,  
Inc.

My Commission Expires:

1-31-05

Rhonda K Boudewyns  
Notary Public, State of Minnesota  
Printed Name: Rhonda K. Boudewyns

